

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

PAMELA RODKEY and CHERIE CUMMINGS, on behalf of themselves and all other similarly situated employees nationwide, and on behalf of the Ohio and Oregon Classes,	:	Case No. 3:16-cv-311
Plaintiffs,	:	
v.	:	
1-800 FLOWERS TEAM SERVICES, INC.,	:	
HARRY AND DAVID, LLC, 1-800 FLOWERS SERVICE SUPPORT CENTER,	:	
INC., and DOES 1-20, inclusive,	:	
Defendants.	:	

**ENTRY AND ORDER DENYING DEFENDANTS 1-800-FLOWERS.COM, INC.
AND 1-800 FLOWERS TEAM SERVICES, INC.'S MOTION TO DISMISS
PLAINTIFFS' COMPLAINT (DOC. 19) AS MOOT**

This case is before the Court on Defendants 1-800-Flowers.com, Inc. and 1-800 Flowers Team Services, Inc.'s Motion to Dismiss Plaintiffs' Complaint ("Motion to Dismiss") (Doc. 19) filed on September 21, 2016. By the Motion to Dismiss, Defendants 1-800-Flowers.com, Inc. and 1-800 Flowers Team Services, Inc. seek dismissal of the Collective and Class Action Complaint (Doc. 1) for lack of personal jurisdiction under Fed. R. Civ. P. 12(b)(2). (Doc. 19 at PAGEID# 101.) On October 12, 2016, in lieu of responding to the Motion to Dismiss, Plaintiffs filed the First Amended Collective and Class Action Complaint (Doc. 21).

Under Fed. R. Civ. P. 15(a)(1)(B), a party may amend its pleading once as a matter of course within 21 days after service of a motion under Fed. R. Civ. P. 12(b)—as Plaintiffs have done here. As the filing of the First Amended Collective Class Action Complaint moots the

Motion to Dismiss, it is **DENIED**.

DONE and **ORDERED** in Dayton, Ohio, this Monday, October 17, 2016.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE